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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,150	10/07/2005	Takashi Ohno	1466.1111	9159
21171	7590	07/29/2009		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER GOLDMAN, MICHAEL H	
			ART UNIT 3688	PAPER NUMBER
			MAIL DATE 07/29/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/552,150

**Applicant(s)**

OHNO ET AL.

**Examiner**

MICHAEL H. GOLDMAN

**Art Unit**

3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date July 22, 2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The following Final Action is in response to the amendment filed on December 10, 2008 and the After-Final amendment filed on June 16, 2009. Claims 1-11 have been amended. Therefore, Claims 1-11 are pending and have been considered below.

#### ***Claim Rejections - 35 USC § 112***

2. The prior action U.S.C. 112 rejection has been withdrawn per the claim amendments submitted June 16, 2009.

#### ***Claim Rejections - 35 USC § 101***

3. The prior action U.S.C. 101 rejections have been withdrawn per the claim amendments submitted June 16, 2009.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Examiner Note: Examiner wishes to thank the Applicant for citing the error in the previous Office Action in which the Examiner cited the 35 USC 102 (b) paragraph instead of the 102(e) paragraph in the rejection by Patel.

5. Claims 1, 4, and 8-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Patel et al. (7,370,004).

Claims 1 and 10-11: Patel et al. discloses an information brokerage method and system comprising:

-a user information storage portion for storing provider area information and provision information for each information provider, the provider area information indicating an area designated by the information provider, and the provision information to be provided by the information provider, a determining portion for determining whether or not an area indicated by the user area information, - an information transmission (delivery) portion for transmitting the provision information (see abstract, lines 1-20 whereby a management repository storing information concerning the user and further storing information concerning a plurality of information/products/services to offer the user and a personalization engine for making decisions (determining portion) as to which provision information to provide to a user, and whereby the information system is coupled to the communication channel (information transmission portion) and whereby the user having a communication device for communicating over the channel,

examiner construes area information as inherently included in the user and provider profiles).

Claim 4: Patel et al. discloses the invention as in claim 1 above. Patel et al. further discloses the feature wherein the provision information storage portion stores category information in association with the provision information, the user information storage portion stores category information desired by the user, and the information transmission portion transmits the provision information if a category of contents of the provision information is included in a category of information desired by the user (see rejection under claim 1).

Claim 8: Patel et al. discloses an information brokerage system comprising:

-a *user information storage* portion for storing provider area information and provision information for each information provider, the provider area information indicating an area designated by the information provider, and the provision information to be provided by the information provider, a *determining portion* for determining whether or not an area indicated by the user area information, - an *information transmission* (delivery) portion for transmitting the provision information (see abstract, lines 1-20 whereby a management repository storing information concerning the user and further storing information concerning a plurality of information/products/services to offer the user and a personalization engine for making decisions (determining portion) as to which provision information to provide to a user, and whereby the information

system is coupled to the communication channel (information transmission portion) and whereby the user having a communication device for communicating over the channel, examiner construes area information as inherently included in the user and provider profiles);

a *notification portion* for sending notification to a terminal device of the user according to the user area information so that the user receives the provision information of the information provider according to the provider area information (see abstract, line 18-20 whereby the plurality of information/product/services to present to the user over the communication channel based on the stored information in the knowledge management repository (examiner interprets plurality of information et al. to present user over communication channel as notification, also see column 3, line 30-41, and column 4, lines 42-46).

Claim 9: Patel et al. discloses a server that is connected to an information brokerage system comprising:

-a user registration portion for receiving an application from the user for information delivery so as to register the user as an information delivery destination user (see column 7, lines 52-54 whereby the present invention provides a means to personalize an interaction via various communication channels between a customer (user) and a provider, examiner construes a means to personalize an interaction as including a user registration portion for receiving an application from the user for information delivery, also see column 8, lines 3-15);

An information delivery *portion* for sending information a terminal device of the user according of the user area information so that the user receives the provision information of the information provider according to the provider area information (see Fig 8 for server and interconnection to user (10) see abstract, line 18-20 whereby the plurality of information/product/services to present to the user over the communication channel based on the stored information in the knowledge management repository (examiner interprets plurality of information et al. to present user over communication channel as notification, also see column 3, line 30-41, and column 4, lines 42-46); and -a delivery status management portion for managing delivery status of information to the provider (see column 8, lines 21-31).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 3, and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patel et al. (7,370,004).

Claim 3: Patel et al. discloses the invention as in claim 1 above. However he fails to explicitly disclose the feature comprising a movement information obtaining portion for obtaining movement information that indicates a speed and a direction of movement of the user to support the determining portion.

The New York City Subway system has been using mobile/wireless technology with a centralized command center (370 Jay Street, Brooklyn, NY) to determine the speed and location of their subway cars since the 1960's and provide appropriate communications directly with the 'motormen' (train engineers).

Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Patel et al. to include a speed and direction of movement of user portion to determine when to transmit provisioning information to a user. One would have been motivated to do so in order to select information providers that the user has not already passed, e.g. when driving on the Interstate.

Claims 6 and 7: Patel et al. discloses the invention as in claim 1 above. However he fails to explicitly disclose the feature wherein the provision information includes information for advising an application for receiving information delivery from the information provider and comprising a delivery status management portion for managing



a delivery status of information that is delivered directly from the information provider to the user, and an accounting information generation portion for counting delivery statuses of the information at a predetermined timing so as to generate accounting information to the information provider.

However, Official Notice is taken that it is old and well known to keep customers informed on the delivery status of an order. For example, both FedEx and UPS delivery services have provided user with up-to-date information pertaining to the expected delivery date and time since they were first established. Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the invention of Patel et al. to include the features of information for advising an application for receiving information delivery from the information provider and comprising a delivery status management portion for managing a delivery status of information that is delivered directly from the information provider to the user, and an accounting information generation portion for counting delivery statuses of the information at a predetermined timing so as to generate accounting information to the information provider. One would have been motivated to do so in order to allow the user to anticipate and prepare for the delivery of the information.

8. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patel (7,370,004) in view of Taschereau (20040076279)

Claims 2 and 5: Patel et al. discloses the invention as in claim 1 above.

However he fails to explicitly disclose the feature wherein the provision/segmented information storage store provider location information, the user information storage portion stores user location information and the information transmission portion transmits the provision information if a distance between a location of the information provider who provides the provision information to be transmitted and a location of the user who is a destination of the transmission is smaller than the distance designated by the user.

However, Taschereau discloses a method and system for providing geographically targeted information and advertising wherein the provision/segmented information storage store provider location information ,the user information storage portion stores user location information and the information transmission portion transmits the provision information if a distance between a location of the information provider who provides the provision information to be transmitted; and a location of the user who is a destination of the transmission is smaller than the distance designated by the user (see [0008], lines 1-12 and also see [0038], lines 3-6 whereby the system returns the described location or a collection of references representing street blocks within the given area (within distance designated by user).

Therefore, it would have been obvious in view of Taschereau for a person having ordinary skill in the art at the time of the invention to modify the invention of Patel et al. to include a distance of provider/provider information to user designated distance to initiate transmission of the provision information. One would have been motivated to do

so in order to satisfy customer travel distance requirements so as to increase the transaction rate, i.e. provide information about an information provider within a reasonable distance from the user.

### ***Response to Arguments***

9. Applicant's arguments filed June 16, 2009 have been fully considered and have been responded to above.

Applicant has requested supporting evidence regarding New York City Subway and wireless communication for determining speed (see Swensen et al. (5420883) see Abstract, lines 13-19 whereby wireless communication links relay train range measurements which include principally speed and high resolution position, also see Fig 1, also as an aside note, the 1973/4 and the current remake of the Film Pelham 1-2-3 which include video references to the NYC command center, which became operational circa 1969 (Examiner worked for the NYC MTA in 1969 and had spent time in the NYC MTA command center which employed the same communications systems as the Swensen system).

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL H. GOLDMAN whose telephone number is (571)270-5101. The examiner can normally be reached on Monday thru Thursday 6:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/MG/  
July 20, 2009

/James W Myhre/  
Primary Examiner, Art Unit 3688